

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE PURPOSES FOR WHICH THE ORPHAN SHARE
5 ACCOUNT MAY BE USED; PROVIDING A CONTINGENT APPROPRIATION AND FUND TRANSFER;
6 AMENDING SECTION 75-10-743, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
7 DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 75-10-743, MCA, is amended to read:

12 **"75-10-743. (Temporary) Orphan share state special revenue account -- reimbursement of claims**

13 **-- payment of department costs.** (1) There is an orphan share account in the state special revenue fund
14 established in 17-2-102 that is to be administered by the department. Money in the account is available
15 to the department by appropriation and must be used;

16 (a) to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-752; and

17 (b) to pay costs incurred by the department in defending the orphan share;

18 (c) to implement the provisions of this part, including remedial actions taken by the department
19 pursuant to this part in response to a release of hazardous or deleterious substances; and

20 (d) for the purposes provided in 75-10-621.

21 (2) There must be deposited in the orphan share account:

22 (a) money allocated from the metalliferous mines license tax pursuant to 15-37-117;

23 (b) all penalties assessed pursuant to 75-10-750(12);

24 (c) funds received from the interest income of the resource indemnity trust fund pursuant to
25 15-38-202;

26 (d) funds allocated from the resource indemnity and ground water assessment tax proceeds
27 provided for in 15-38-106;

28 (e) unencumbered funds remaining in the abandoned mines state special revenue account;

29 (f) interest income on the account;

30 (g) funds received from settlements pursuant to 75-10-719(7); and

1 (h) funds received from reimbursement of the department's orphan share defense costs pursuant
2 to subsection (6).

3 (3) If the orphan share fund contains sufficient money, valid claims must be reimbursed
4 subsequently in the order in which they were received by the department. If the orphan share fund does
5 not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may
6 not be made and the orphan share fund, the department, and the state are not liable for making any
7 reimbursement for the costs. The department and the state are not liable for any penalties if the orphan
8 share fund does not contain sufficient money to reimburse claims, and interest may not accrue on
9 outstanding claims.

10 (4) Except as provided in subsection (8), claims may not be submitted and remedial action costs
11 may not be reimbursed from the orphan share fund until all remedial actions, except for operation and
12 maintenance, are completed at a facility.

13 (5) Reimbursement from the orphan share fund must be limited to actual documented remedial
14 action costs incurred after the date of petition provided in 75-10-745. Reimbursement may not be made
15 for attorney fees, legal costs, or operation and maintenance costs.

16 (6) (a) The department's costs incurred in defending the orphan share must be paid by the persons
17 participating in the allocation under 75-10-742 through 75-10-752 in proportion to their allocated shares.
18 The orphan share fund is responsible for a portion of the department's costs incurred in defending the
19 orphan share in proportion to the orphan share's allocated share, as follows:

20 (i) If sufficient funds are available in the orphan share fund, the orphan share fund must pay the
21 department's costs incurred in defending the orphan share in proportion to the share of liability allocated
22 to the orphan share.

23 (ii) If sufficient funds are not available in the orphan share fund, persons participating in the
24 allocation under 75-10-742 through 75-10-752 shall pay all the orphan share's allocated share of the
25 department's costs incurred in defending the orphan share in proportion to each person's allocated share
26 of liability.

27 (b) A person who pays the orphan share's proportional share of costs has a claim against the
28 orphan share fund and must be reimbursed as provided in subsection (3).

29 (7) If any money remains in the orphan share fund after June 30, 2005, and after outstanding
30 claims are paid, the money must be deposited in the general fund.

(8) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(9) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process. (Terminates June 30, 2005--sec. 30, Ch. 415, L. 1997.)"

NEW SECTION. Section 2. Contingent appropriation of orphan share funds. (1) There is transferred from the orphan share account to the environmental quality protection fund established in 75-10-704 an amount up to \$300,000 during the biennium beginning July 1, 2001, if the expenditures from the environmental quality protection fund exceed available revenue. The money transferred pursuant to this subsection is appropriated to the department of environmental quality subject to the appropriation from the environmental quality protection fund in [House Bill No. 2]. The total expenditures in each fiscal year of the biennium may not exceed the appropriation made in [House Bill No. 2].

(2) There is transferred from the orphan share account to the hazardous waste/CERCLA special revenue account established in 75-10-621 an amount up to \$200,000 during the biennium beginning July 1, 2001, if the expenditures from the hazardous waste/CERCLA account exceed available revenue. The money transferred pursuant to this subsection is appropriated to the department of environmental quality subject to the appropriation from the hazardous waste/CERCLA account in [House Bill No. 2]. The total expenditures in each fiscal year of the biennium may not exceed the appropriation made in [House Bill No. 2].

NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2001.

NEW SECTION. Section 4. Termination. [This act] terminates June 30, 2003.

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